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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,192	06/01/2000	Charles L. Zahm	GEH-01-060	4926

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,192

Applicant(s)

ZAHM ET AL

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "heading" in claims 1-31 is used by the claim to mean "the direction of travel", while the accepted meaning as defined in the Merriam Webster's New Collegiate Dictionary, tenth edition, is "the compass direction in which the longitudinal axis of a ship or aircraft points." The term is indefinite because the specification does not clearly redefine the term. Heading and direction of travel can be the same in certain instances, but in some cases, they are not the same. For instance, when a train is traveling along or entering a curve the trucks on the train may turn causing the heading to not truly line up with the direction of travel. Heading, as it is conventionally defined, is a measure of attitude. While in the current invention it seems to be used as a measure of movement.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 3, 4, 5, 12, 13, 14, 30, 15, 16, 17, 18, 19, 28, 29, and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckner, 6266582, in view of Hawthorne, 6263266.

2. As per claims 1, 2, 3, 5, 12, 13, 14, 30, 15, 16, 17, 19, 28, 29, and 31, Bruckner discloses providing at least two satellite signal receivers on the vehicle at spaced locations along the length of the vehicle in figure 4; determining a set of phase differences between satellite reference signals received by satellite receivers on lines 15-30, on column 4; determining an accurate heading of the vehicle during normal operation using the set of phase differences between the satellite reference signals, whereby the heading represents the direction of travel of the vehicle and which end of the locomotive is in the lead in the direction of travel on lines 1 through 24, on column 3; determining a vector distance between the two antennas and using the equations in the claims on lines 18-30, on column 4; determining heading rate by the equation in the claims on lines 1-15, on column 3;

3. Bruckner does not disclose the vehicle is a locomotive; determining track curvature; access a database of track heading and grade to determine a present track

heading and grade at the determined position of the locomotive; sample the latitude and longitude of the locomotive and determine the distance traveled by the locomotive; and using the equations of the claims to determine the distance traveled.

4. Hawthorne teaches the vehicle is a locomotive and is part of a consist in figure 1; determining track curvature on lines 25-45, on column 9; access a database of track heading and grade to determine a present track heading and grade at the determined position of the locomotive on lines 25-45, on column 9; sample the latitude and longitude of the locomotive and determine the distance traveled by the locomotive on lines 35-38, on column 10; and using the equations of the claims to determine the distance traveled on lines 28-45, on column 9, this is inherent in all GPS systems that measure distance. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the GPS system of Bruckner with Hawthorne because such modification would provide for a locomotive system that can eliminate the need for redundant inertial or dead reckoning measurement systems.

5. As per claims 4 and 18, Bruckner and Hawthorne disclose the limitations as set forth above. Bruckner and Hawthorne do not disclose determining the heading according to the equation in the claims. This is a design choice since it depends on the placement of the antennas as to whether the claimed equation represents the heading. In the positioning of the antennas in Bruckner 90 degrees would need to be added to the heading measurement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the heading equation in the claims because it is a design choice.

2. Claims 10, 11, 24, 25, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckner, 6266582, in view of Hawthorne, 6263266, as applied to claims 1, 5, 15, and 19 above, and further in view of Kumar, 5896947.

6. Bruckner and Hawthorne disclose all the limitations as set forth above. They do not disclose controlling the dispensing of track lubricant in accordance with track curvature; when the curvature is greater than a predetermined magnitude. Kumar teaches of the dispensing of track lubricant in accordance with track curvature and when the curvature is greater than a predetermined magnitude on columns 1, 2, and in the abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the invention of Kumar with Bruckner and Hawthorne, because such modification would make a track lubrication system that measures track curvature better which would make distributing the correct amount of lubricant easier.

7. Claims 6, 7, 8, 9, 20, 21, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckner, 6266582, in view of Hawthorne 6263266, as applied above, and further in view of Bidaud, 6347265.

3. Bruckner and Hawthorne do not disclose the track curvature is determined from angular rotation determined from satellite signals and velocity; angular rotation is found from a gyro and vehicle speed from a tachometer; or finding curvature from lateral acceleration and velocity. Bidaud teaches of disclose the track curvature is determined from angular rotation and velocity on lines 20-30, on column 5; angular rotation is found from a gyro and vehicle speed from a tachometer on lines 20-30, on column 5; or finding curvature from lateral acceleration and velocity on column 5. Bidaud does not

teach determined from angular rotation determined from satellite signals to measure curvature. Bruckner discloses using satellite receivers to replace gyros for measurements. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the curvature finding methods of Bidaud in the invention of Bruckner and Hawthorne et al. because such modification would allow the use of both satellite signals and inertial sensors to both measure the same values and act as redundant systems, or to use both systems to improve accuracy of both measurements.

Response to Arguments

8. Applicant's arguments filed 10-30-03 have been fully considered but they are not persuasive. The first argument states that Hawthorne does not disclose inertial measurements. This is not convincing because Hawthorne discusses measuring speed and acceleration with a conventional odometer. This would be an inertial measurement. The other arguments all deal with what heading truly defines. The rejection under 35 U.S.C. 112, second paragraph, is made because it is not clear what heading defines in this invention. The conventional definition does not agree with the definition the applicant appears to be using.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on 703-308-3873. The fax phone

Art Unit: 3661

numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

BJB
January 12, 2004


WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600